



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

August 11, 2020

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STATE CLEARINGHOUSE

Ms. Tiffany Vien, Assistant Planner
City of Santa Clara
1500 Warburton Avenue
Santa Clara, California 95050
TVien@santaclaraca.gov

Subject: Memorex Data Center, Notice of Preparation of a Programmatic Draft Environmental Impact Report, SCH No. 2020070350, City and County of Santa Clara

Dear Ms. Vien:

The California Department of Fish and Wildlife (CDFW) received the Notice of Preparation (NOP) of a Programmatic Draft Environmental Impact Report (PDEIR) from the City of Santa Clara (City) for the Memorex Data Center (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife resources. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is expected to be a Trustee Agency with regards to this Project. As a Trustee Agency, CDFW has a responsibility pursuant to CEQA for commenting on projects that could directly or indirectly impact biological resources. CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (i.e. biological resources). As a Trustee Agency, CDFW is responsible for providing, as available, biological expertise to review and comment upon environmental documents and impacts arising from Project activities (CEQA Guidelines, § 15386; Fish and Game Code, § 1802).

PROJECT DESCRIPTION SUMMARY

Proponent: Skybox Development

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Ms. Tiffany Vien
City of Santa Clara
August 11, 2020
Page 2

Objective: Demolish the existing buildings and parking lots on the site and construct a four-story 472,9200-square-foot data center building with an attached six-story 87,520-square-foot ancillary use office and storage component.

Location: 1200 – 1300 Memorex Drive, Santa Clara, CA 95050; APN# 224-66-006.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

The NOP, within the Biological Resources section, states that the PDEIR will address consistency with the City's Tree Preservation Ordinance and that impacts to migratory birds will be discussed. This appears to indicate that there will be removal of vegetation within the Project site. In review of the Project site within Google Earth, there does seem to be a few trees and shrubs on the site. There are also trees located adjacent to the Project site. Please be advised that both native and non-native trees provide nesting habitat for birds, and habitat value for other wildlife.

CDFW recommends that the following protective measures be included in the PDEIR:

1. Nesting Bird Surveys: If Project-related work is scheduled during the nesting season (typically February 15 to August 30 for small bird species such as passerines; January 15 to September 15 for owls; and February 15 to September 15 for other raptors), CDFW recommends that a qualified biologist conduct two surveys for active nests of such birds within 14 days prior to the beginning of Project construction, with a final survey conducted within 48 hours prior to construction. Appropriate minimum survey radii surrounding the work area are typically the following: i) 250 feet for passerines; ii) 500 feet for small raptors such as accipiters; and iii) 1,000 feet for larger raptors such as buteos. Surveys should be conducted at the appropriate times of day and during appropriate nesting times.
2. Active Nest Buffers: If the qualified biologist documents active nests within the Project area or in nearby surrounding areas, an appropriate buffer between the nest and active construction should be established. The buffer should be clearly marked and maintained until the young have fledged and are foraging independently. Prior to construction, the qualified biologist should conduct baseline monitoring of the nest to characterize "normal" bird behavior and establish a buffer distance which allows the birds to exhibit normal behavior. The qualified biologist should monitor the nesting birds daily during construction activities and increase the buffer if the birds show signs of unusual or distressed behavior (e.g. defensive flights and vocalizations, standing up from a brooding position, and/or flying away

Ms. Tiffany Vien
City of Santa Clara
August 11, 2020
Page 3

from the nest). If buffer establishment is not possible, the qualified biologist or construction foreman should have the authority to cease all construction work in the area until the young have fledged and the nest is no longer active.

ENVIRONMENTAL DATA

CEQA requires that information developed in draft environmental impact reports be incorporated into a data base which may be used to make subsequent or supplemental environmental determinations. [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data#44524420-pdf-field-survey-form>.

The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

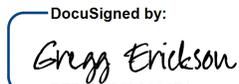
CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ms. Kristin Garrison, Environmental Scientist, at (707) 944-5534 or by email at Kristin.Garrison@wildlife.ca.gov; or Ms. Brenda Blinn, Senior Environmental Scientist (Supervisory), at (707) 944-5541 or by email at Brenda.Blinn@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Gregg Erickson
Regional Manager
Bay Delta Region

ec: Office of Planning and Research, State Clearinghouse, Sacramento